

land. Read 1st and 2nd times and referred to the committee on the Judiciary.

A bill to release A. E. Benham from the disabilities of minority. Read 1st and 2nd times and referred to the committee on the Judiciary.

A bill to amend the 4th section of an act allowing discounts and set-offs, passed 5th February, 1840. Read 3rd time and passed.

A bill to incorporate the Texas Masonic Institute. Read 3rd times and passed by the following vote :

YEAS—Messrs. Chambers, Dickinson, Duggan, Erath, Fall, Genfry, Grimes, Guinn, Harman, Hart, Hyde, Lott, Martin, Parsons, Pitts, Potter, Quinan, Rains, Rainey, Scarborough, Schleicher, Sims, Throckmorton, Townes, Walker, Wallace and Whaley—26.

NAYS—none.

The following bills were severally passed to a 3rd reading.

A bill for the relief of A. H. Booth.

A bill for the relief of Matt Finch.

A bill for the relief of Joseph W. Bass.

The report of the committee on State Affairs, on the resolutions referred to them relative to the conduct of Governor Wise and President Buchanan, in connexion with the Harper's Ferry outbreak, was read.

Mr. Quinan offered the following amendment:

Strike out these words in 2nd resolution, "and we earnestly counsel the utmost vigilance in guarding against the recurrence of a similar conspiracy within our own borders, or elsewhere in the South." Lost.

Mr. Rainey moved to postpone the further consideration of the resolutions until Monday the 19th, inst. Lost.

The resolutions were then ordered to be engrossed.

On motion of Mr. Parsons, Mr. Rainey was added to the committee on State Affairs.

Mr. Paschal was excused from attendance on the Senate, until the 5th January, 1860.

On motion of Mr. Hyde, the Senate adjourned until 10 o'clock to-morrow.

FRIDAY, December 16th, 1859.

Senate met pursuant to adjournment. Prayer by the Chaplain—roll called—quorum present.

The journal of yesterday was read and adopted.

Mr. Whaley presented the petition of sundry citizens of Robertson, Leon and Milam counties, for mail route from Crockett to Austin. Referred to the committee on State affairs.

Mr. Walker, chairman of the committee on Public Lands, to whom was referred a bill for the relief of Michael K. Hammond, returned the same to the Senate and recommended its passage.

Mr. Walker, chairman of the committee on Public Lands, made the following reports :

The committee on Public Lands, have again considered the bill to provide for the record of certain field notes.

The committee have instructed me to return the bill to the Senate with the following amendments, and to recommend its passage.

Amend by adding the following paragraph to the first section of the bill to-wit :

" Provided nothing herein contained shall divest any one of rights already acquired.

The committee on Public Lands, have considered the bill to permit the Mercer colony certificates to be located upon any public domain in the State.

The committee have instructed me to return the bill to the Senate with the following amendments, and to recommend its passage.

Amend by inserting in the second line and after the word " that " the words " the unlocated."

Mr. Fall, chairman of the committee on Engrossed Bills, reported the following bills correctly engrossed:

A bill amendatory of and supplemental to an act to incorporate the Sabine and Galveston Bay, Railroad and Lumber Company.

A bill for the relief of James C. Dillingham.

A bill ordering the return of certificates in Fisher's and Miller's colony.

A bill authorizing the heirs representatives or relations of deceased persons, to sue for and recover damages where the death of such person has been caused or occasioned by the negligent, culpable or wrongful act of another.

A bill authorizing the County court of Hill county, to levy a special tax for the purpose of building a Court House.

And a bill to change and adjust the Western boundary lines of the counties of Uvalde and Dawson, and the Eastern boundary line of the county of Kinney.

Mr. Quinan, from the committee on Internal Improvements, made the following report :

The committee on Internal Improvements, to whom was referred a bill to be entitled an act to amend an act to incorporate the Houston, Tap and Brazoria Railway Company, passed September 1st, 1856, and for their relief, have had the same under consideration, and have instructed me unanimously to return the same to the Senate, and recommend its passage.

The propriety of granting to this company the relief which the bill extends, can be made apparent by a brief recital of the facts. The company have now completed and in running order a section of their road, extending from Houston to a point near Columbus, a distance of forty miles. The grading for 30 miles more extending to the line of Wharton county, is either completed by this time or nearly so, and contracts have been made for the grading and ties for the whole length of the road, so far as located to the town of Wharton, on the Colorado.

The cost of the whole work, and the estimated cost of the work yet to be done, under the very prudent and energetic management which has characterized the operations of this company will not much exceed the unexampled low figures of \$10,000 per mile. This is measurably, to be attributed, besides the facilities indicated by the line of their road, to the hearty co-operation and deep interest taken in the undertaking by the Merchants and Planters along the line of the road. Under the conviction that by their charter they were entitled to the benefits of the laws for the investment of the school fund. The company purchased the iron for the greater part of their road on the faith of the State loan, and with the understanding, that the loan should be applied to the payment of that indebtedness.

Before purchasing the iron the company obtained from the then Commissioner of the school fund, the Governor, Attorney General and Comptroller, their opinion in writing, that the company was entitled to and would receive the State loan, and with the credit which this gave them, they had little difficulty in making their negotiations. Having completed 35 miles of their road, the company applied to the Board of School Commissioners, and obtained from them drafts upon the Treasurer to the amount of \$21,000, on the school fund. The Treasurer however, entreteining serious doubts, whether by the terms of the law they were entitled to the State loan, refused to pay the drafts. The company applied to the courts for redress, but without success, the Supreme court deciding that a mandamus can not be awarded against the Treasurer of the State.

By this unfortunate event, the notes of the company for the payment for their iron, have fallen under protest. The credits

of the company has been prostrated, and their efforts for the further prosecution of their work paralyzed. In this condition of affairs, they have applied to the Legislature for relief. Without undertaking to determine the questions of law, which have arisen upon the construction of the charter of the company, your committee deem it proper to state that two successive Attorneys General of the State, have pronounced in favor of the company's right to the loan; the board appointed to invest the school fund have given judgment in their favor. The legal warrants have been issued to the Treasurer in accordance with the judgment, and whatever might be the opinion of the committee under other circumstances, they have now not the least hesitancy in expressing their conviction that the charter of the company ought to be amended so as to remove all doubts as to their rights under it, and that the warrants upon the Treasurer ought to be honored. A different course, while it would inflict irreparable loss and injury upon the company, who in good faith have undertaken a very praiseworthy enterprize, and set so excellent an example of economy and energy to the other Railway corporations of the State, would also seriously affect the credit of the State, and endanger the success of all other companies engaged in similar enterprizes. No Railway company in the State is more deserving of encouragement, and to none can the school fund be loaned with more ample guarantees for its punctual refunding.

Mr. Potter, chairman of the committee on the Judiciary, made the following reports :

The committee on the Judiciary, have considered a House bill, "to repeal an act creating a system of Bankruptcy and regulating the collection of foreign debts," and a majority of the committee direct me to return the same to the Senate and recommend its passage.

The Judiciary committee, have considered a House bill, to incorporate the Hebrew Congregation, at the city of Houston, and direct me to return the same to the Senate with amendments, and recommend the adoption of the amendments and the passage of the bill.

Amend 1st. In section 1, line 10, after the word "associates" insert "and successors."

Amend 2. In section 1, line 11, after the word "Houston" insert for "religious purposes."

The committee on the Judiciary, have considered a bill, authorizing and requiring the County courts of the several counties in the State, to lay off their respective counties, into Commissioners Districts, and to provide for the election of county

commissioners, therein. And a majority of the committee direct me to return the same to the Senate and recommend that it do not pass. The object of the bill is to provide for the election of County commissioners by districts, and the committee think that as the commissioners are to represent the interests of the entire county, they should be elected by the direct vote of all of the electors of the county as is now provided by law.

The Judiciary committee, have considered a bill concerning party walls and division, fences and ditches in common and otherwise, and direct me to return the same to the Senate and recommend its passage. We have statutory regulations upon the subject matter, of the bill, and the committee think the provisions of the bill judicious and proper.

The committee on the Judiciary, have considered a bill to amend the eighth section of an act regulating fees of office, approved March 20th, 1848, and to add an additional section to said act, and direct me to return the same to the Senate and to recommend that it do not pass. The object of the bill is to increase the pay allowed to Sheriffs in certain cases, and to increase the compensation of Bailiffs, and the committee are of the opinion that the proposed legislation is unnecessary.

The Judiciary committee, have considered a bill authorizing a creditor to bring suit against his debtor, in the county where such debt has been contracted, and a majority of the committee direct me to return the same to the Senate and recommend that it do not pass. The object of the bill is to give the creditor the right to sue his debtor, in the county in which the debt was contracted, although the debtor may have removed from the county, and there was no contract to pay in such county. The committee think that the law as it now is, giving the creditor the right to sue his debtor in the county where he has contracted to pay, and also authorizing the issuance of an attachment, when the defendant is about to leave the county, or send his property out of it, is sufficiently convenient for the creditor, and renders further legislation on the subject unnecessary. If the creditor wishes to protect himself in the right to sue in any particular county, he has only to take the precaution to so contract with his debtor, and thus accomplish his object in all cases.

The committee on the Judiciary, have considered a bill amendatory of an act passed September 1st, 1856, for the relief of Nathaniel Prescott, R. S. Wheat, L. S. McGaughey and Eliza Green, and direct me to return the same to the Senate with a substitute therefor, and recommend the adoption of the substitute and the passage of the bill.

Mr. Townes, from the committee on Enrolled Bills, reported "a bill to provide payment for printing the proclamation of the Governor," and a bill to revive and continue in force, and supplemental to and amendatory of an act, to incorporate the San Antonio and Mexican Gulf Railroad Company, approved September 5th, 1850, and the several supplemental and amendatory acts concerning said Railroad, approved November 14th, 1857, correctly enrolled, duly signed and this day presented to the Governor.

Mr. Shepard, from the committee on the Judiciary, reported back to the Senate, a House bill to legitimate Donacena Thomas, late Donacena Howland, and recommended its passage.

And also a House bill for the relief of Hannah C. Buckner, and recommended its passage.

Mr. Rainey, chairman of the committee on Agriculture, made the following report :

The committee on Agriculture, have considered a bill to regulate Factors and Warehousemen, and regard the object sought to be accomplished by said bill, as wise and necessary, and that Legislative protection of the character proposed, is indispensable to the welfare of the planting interest of the State. When abuses become intolerable they should be removed. The committee are of the opinion that too much encouragement cannot be given to the development of the agricultural resources of our State, and that the labor of the producer should be protected from onerous exactions, whether made by the State or private individuals. The committee have therefore instructed me to return said bill to the Senate and recommend its passage.

A message was received from the House informing the Senate, that the House had passed the following bills:

A bill to incorporate the Western Texas Life, Fire and Marine Insurance Company, of the city of Indianola, State of Texas.

A bill to authorize the County court of Collin county, to levy a special tax for the erection of a court house therein.

A bill making appropriations to defray the expenses of the State Penitentiary.

And a bill to amend an act to incorporate the Houston, Tap and Brazoria Railway Company, and for relief.

Mr. Guinn, offered the following resolution :

Resolved, That the committee on State Affairs, be required to enquire into the expediency of preparing a bill compelling commanding officers of the troops now on the field, or which may be called into the field hereafter, to return all of the property furnished them by the State, as soon as said expedition shall be

disbanded, to the proper officer of the State, to be appointed by the Governor, and in case they fail or refuse to return or account satisfactorily for such property, they shall be liable for the full value of the same, and that said committee be required to report by bill or otherwise, at an early day of the session. Adopted.

Mr. Shepard introduced a bill to incorporate the Washington County Manufacturing, Insurance and Safety Fund Association. Read 1st and 2nd times and referred to the committee on Agriculture.

Mr. Scarborough introduced a bill for the relief of Martha Brennan. Read 1st and 2nd times and referred to the committee on Private Land Claims.

Mr. Potter offered the following resolution :

Resolved, That the committee on Internal Improvements, be requested to take into consideration the propriety of encouraging the construction of Canals by donations of lands, on the basis of land donations to Railroads, and report by bill or otherwise. Adopted.

Mr. Britton introduced a bill to ascertain and adjudicate certain claims for land against the State, situated between the Nueces and Rio Grande rivers. Read 1st and 2nd times and referred to the committee on the Judiciary.

Mr. Scarborough introduced a joint resolution, requesting our Senators and Representatives in Congress, to obtain the removal of the port of entry for the district of Brazos Santiago, from Point Isabel to Brownsville, and to obtain an appropriation for building a custom house. Read 1st time.

On motion of Mr. Scarborough, rule suspended, read 2nd time and ordered to be engrossed.

On motion of Mr. Scarborough, rule further suspended, read 3rd time and passed.

On motion of Mr. Rainey, the rule was suspended, and the bill to regulate Factors and Warehousemen was taken up.

Mr. Wallace moved to refer the bill to the committee on the Judiciary.

Mr. Rainey moved to postpone the bill until to-morrow. Lost.

The bill was then referred to the committee on the Judiciary.

On motion of Mr. Herbert, the rule was suspended, and the bill to legitimate Donaceana Thomas, late Donaceana Howland was taken up. Read and passed to a 3rd reading.

On motion of Mr. Herbert, the rule was further suspended, bill read 3rd time and passed.

On motion of Mr. Quinan, the rule was suspended, and a House bill to amend an act to incorporate the Houston, Tap and Bra-

zoria Railway Company, passed September 1st, 1856, and for their relief, was taken up and read 1st time.

On motion of Mr. Gentry, the rule was suspended, bill read 2nd time and passed to a 3rd reading.

On motion of Mr. Quinan, the rule was further suspended, bill read 3rd time and passed by the following vote :

YEAS—Messrs. Chambers, Dickinson, Duggan, Erath, Fall, Gentry, Grimes, Guinn, Harman, Hart, Hyde, Martin, Parsons, Pitts, Potter, Quinan, Rains, Rainey, Scarborough, Shepard, Sims, Throckmorton, Townes, Wallace and Whaley—25.

NAYS—Mr. Herbert—1.

Mr. Hart moved to reconsider the vote taken on yesterday, making a bill to repeal the usury laws, the order of the day for Friday the 6th day of January. Carried.

On motion of Mr. Hart, it was made the order of the day for Monday the 19th inst.

On motion of Mr. Throckmorton, Mr. Britton was excused from attendance on the Senate for twenty days from Monday next.

On motion of Mr. Guinn, Mr. Erath was excused for one week, from Monday next.

ORDERS OF THE DAY.

A bill to amend the 2nd, 5th, 8th and 9th sections of an act to authorize the sale of the public domain, was read.

Mr. Harman offered a substitute for the bill.

On motion of Mr. Guinn, the substitute was laid on the table by the following vote :

YEAS—Messrs. Chambers, Dickinson, Fall, Gentry, Guinn, Hart, Herbert, Hyde, Lott, Martin, Potter, Quinan, Schleicher, Shepard, Sims, Townes and Wallace—17.

NAYS—Messrs. Duggan, Erath, Grimes, Harman, Parsons, Pitts, Rains, Rainey, Scarborough, Throckmorton, Walker and Whaley—12.

Mr. Schleicher offered the following amendment :

“ Provided that no district or county surveyor or any of their deputies, shall be allowed to make any survey under the provisions of this act in conflict with any lands previously titled or equitably claimed.” Rejected.

Mr. Duggan offered the following amendment :

“ Provided that any person who may have previously received land under any pre-emption law of this State, or the Republic of Texas, shall not be entitled to the benefit of this act.”

On motion of Mr. Hart, the amendment was laid on the table.

The bill was then ordered to be engrossed.

On motion of Mr. Hart, the rule was suspended, bill read 3rd time and passed by the following vote :

YEAS—Messrs. Chambers, Dickinson, Erath, Fall, Gentry, Guinn, Harman, Hart, Hyde, Lott, Martin, Parsons, Pitts, Rains, Rainey, Scarborough, Schleicher, Sims, Throckmorton, Townes, Walker, Wallace and Whaley—23.

NAYS—Messrs. Duggan, Grimes, Herbert, Potter, Quinan and Shepard—6.

A bill to change and adjust the western boundary lines of the counties of Uvalde and Dawson, and the eastern boundary line of the county of Kinney. Read.

A bill authorizing the heirs, representatives or relations of deceased persons to sue for and recover damages, when the death of such person or persons has been occasioned by the negligent culpable or wrongful act of another, were severally read 3rd time and passed.

A bill for the relief of A. Spain Summerlin, deceased. Read and passed to a 3rd reading.

A bill making appropriations to defray the expenses of the State Penitentiary. Read 1st and 2nd times and referred to the committee on the Penitentiary.

The report of the committee on Private Land Claims, recommending the rejection of a bill for the relief of the heirs of Stephen F. Slaughter.

A bill for the relief of John Smith, and the petition of John Fisher, was read and adopted.

A bill releasing railroad companies of this State, from the necessity of completing, equipping and putting in running order a section of twenty-five miles of road each and every year, was on motion of Mr. Guinn, made the order of the day for Thursday, the 22nd inst.

The report of the committee on State Affairs, on a bill to regulate the election of the Superintendent of the Penitentiary, was, on motion, of Mr. Guinn, made the order of the day for Tuesday, the 10th day of January next.

A bill granting a pension to Charles Shepard. Read 2nd time and ordered to be engrossed.

On motion of Mr. Townes, the rule was suspended, bill read 3rd time and passed.

The following bills were severally read and ordered to be engrossed.

A bill for the relief of Andreas Manchaca.

A bill making an appropriation to pay Assessors and Collectors for taking the scholastic census for the year 1859.

A bill concerning vendor's lien on real estate.

And a bill to amend the 8th section of the act of 5th February 1840, concerning conveyances.

The report of the committee on the Judiciary, on a bill to define the homestead in a town or city, was on motion of Mr. Potter, laid on the table.

The report of the committee on Private Land Claims, on a bill for the relief of W. P. Tindall, offering amendments thereto, was read, amendments adopted, and bill ordered to be engrossed.

On motion of Mr. Throckmorton, the rule was suspended, bill read 3rd time and passed.

On motion of Mr. Potter, Mr. Shepard was excused for one week, from and after Tuesday next.

On motion of Mr. Hyde, the Senate adjourned until 10 o'clock to-morrow morning.

SATURDAY, December 17th, 1859.

Senate met pursuant to adjournment. Prayer by the Chaplain—roll called—quorum present.

The Journal of yesterday was read and adopted.

Mr. Grimes presented the petition of William Herty, for relief. Referred to committee on Private Land Claims.

Mr. Quinan presented the petition of the county court of Brazoria county, praying confirmation of certain acts of the court. Referred to the committee on the Judiciary.

Mr. Fall, chairman of the committee on Engrossed Bills, reported the following bills correctly engrossed :

Joint Resolution of the State of Texas, approving the course of Mr. Buchanan President of the United States, Gov. Wise of Virginia, and Gov. Parker of Pennsylvania.

A bill to amend the 34th section of an act, to regulate proceedings in the District Court, passed May 13th, 1856.

A bill for the relief of the heirs of John Gates.

And a bill for the relief of Myram Mudget, and his assignees.

Mr. Guinn, chairman of the committee on Claims and Accounts, made the following report:

The committee on Claims and Accounts, to whom was referred a bill to appropriate two thousand dollars to pay for supplies furnished Capt. Tobin's command, have considered it, and have instructed me to report a substitute, and recommend its passage. A majority of the committee have instructed me to say that they